IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Docket: LANDEGREN=1A

In re Application of:	)	Conf. No.: 5356
Ulf LANDEGREN et al.	)	Art Unit: 1637
Appln. No.: 09/785,657	)	Examiner: S. Chunduru
Filed: February 20, 2001	)	Washington, D.C.
For: METHODS AND KITS FOR PROXIMITY PROBING	)	June 21, 2007

RESPONSE

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Randolph Building, Mail Stop Amendments
401 Dulany Street
Alexandria, VA 22314

Sir:

The present communication is responsive to the official action of February 21, 2007. Claims 2-7, 13-15 and 17-28 presently appear in this case. No claims have been allowed. The official action of February 21, 2007, has now been carefully studied. Reconsideration and allowance are hereby respectfully urged.

Briefly, the present invention relates to a method for detecting the presence of one or more analytes in a solution, using proximity probes that include a binding moiety and a nucleic acid. The nucleic acid from one proximity probe is only capable of interaction with the nucleic acid from the

other proximity probe when these are in close proximity, i.e., have bound to the analytes for which they are specific. Thus, detecting the degree of interaction between the nucleic acids is sufficient to detect the presence of one or more analytes in solution. This is known as a homogenous (or homogeneous) assay, as it does not require a solid phase. There are many advantages of homogenous assays over solid phase (or heterogeneous) assays.

The examiner has objected to the specification because the application contains sequence disclosures but fails to comply with the requirements of 37 CFR 1.821-1.825. The examiner refers to Fig. 10 and page 13 for sequences that are not identified by sequence ID numbers. The examiner states that the application contains no sequence listing either in the form of a paper copy or computer readable form. This objection is respectfully traversed.

The examiner's attention is invited to applicant's response filed September 20, 2001, which is responsive to the notice to comply dated July 20, 2001. It is noted that this document appears in the image file wrapper for this case in the PAIR system, although it does not seem to be listed in the transaction history. PAIR also shows that the CRF was received and entered by the PTO. Applicant's response of September 20, 2001, fully complies with the sequence listing

requirement and included a paper copy and computer readable form sequence listing and amendments to the specification to insert SEQ ID NO's, as well as a proposed amendment to Fig. 10. As this objection appears to be based on an error in the Patent and Trademark Office, it is respectfully requested that the image copy of applicant's response of February 20, 2001, be considered and any errors in the transaction history corrected to show that all of the sequence requirements have been complied with.

With respect to the proposed amendment to Figure 10, it has been noticed that some of the nucleotides in this figure as filed were too faint to be readable. Fortunately, all of the intended nucleotides were identified in the specification as filed at page 13. Thus, clarification of Fig. 10 involves no new matter. Attached hereto is another copy of Fig. 10 marked up in red to show the proposed changes. It is also requested that the examiner indicate his approval of all of these proposed changes to Fig. 10, which include those changes requested with applicant's amendment of February 20, 2001, so that a formal copy of Fig. 10 can be filed at the appropriate time.

Claims 2-7, 14 and 19-28 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7, 21, 22 and

26 of U.S. patent no. 6,511,809. Furthermore, claims 13, 15, 17 and 18 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7, 21, 22 and 26 of U.S patent no. 6,511,809 (the '809 patent) in view of Ebersole.

Obviousness-type double patenting rejections can be overcome by the filing of a terminal disclaimer. Accordingly, attached hereto is a terminal disclaimer, disclaiming any term of the patent issuing from the present application that may extend beyond the term of the '809 patent, and including all of the other required assertions. Accordingly, this obviousness-type double patenting rejection has now been obviated.

It should be noted for the record that applicant does not agree with the examiner's obviousness analysis. Furthermore, the filing of this terminal disclaimer is expressly made without admission that the claims of the present application are obvious over the claims of the '809 patent. The terminal disclaimer is being filed solely to expedite issuance of this case.

It is submitted that all the claims now present in the case clearly define over the references of record and fully comply with 35 U.S.C. 112. Reconsideration and allowance are therefore earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By /rlb/
Roger L. Browdy
Registration No. 25,618

RLB:jmd
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\D\DEHN\Landegren1A\PTO\2007-06-21Response.doc